



For a thriving New England

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April 22, 2016

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VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

RE: Notice of Violations and Intent to File Suit under the Clean Water Act

To Whom It May Concern:

The Conservation Law Foundation (“CLF”)¹ hereby gives notice to the addressed persons of its intent to file suit pursuant to Section 505 of the Federal Water Pollution Control Act (“Clean Water Act,” “CWA,” or “Act”), 33 U.S.C. § 1365(a), for violations of the Act specified below. This letter constitutes notice pursuant to 40 C.F.R., Part 135 (the “Notice”) to the addressed persons of CLF’s intention to file suit in United States District Court of the District of Massachusetts seeking appropriate equitable relief, civil penalties, and other relief no earlier than 60 days from the postmark date of this Notice letter.

The subject of this action is two-fold. First, Brookside Auto Parts, Inc. (hereinafter “Brookside”) is discharging stormwater directly associated with the automobile salvage and scrap metal facility located at 4 Brookside Rd., Orange, MA 01364 (hereinafter the “Facility”), to the waters of the United States without a permit, in violation of 33 U.S.C. §§ 1311(a) and 1342(p)(2)(B). Second, Brookside has failed to obtain coverage under any Clean Water Act permit including the Multi-Sector General Permit² (“MSGP”) adopted by EPA for industrial sources of polluted

¹ CLF is a not-for-profit 501(C)(3) organization dedicated to the conservation and protection of New England’s environment. Its mission includes the conservation and protection of the many uses of the waters in and around the Miller watershed for, among other things, fishing, recreation, boating, scenic/aesthetic, and scientific purposes. CLF’s membership includes people who live in or near the Miller watershed, and use and enjoy the watershed for recreational, aesthetic, and/or scientific purposes. The interests of CLF’s members are adversely affected by the Facility’s discharges of stormwater pollution to the receiving waters without a permit and in violation of the Clean Water Act.

² ENVIRONMENTAL PROTECTION AGENCY, MULTI-SECTOR GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY (MSGP) [hereinafter MSGP], *available at*

stormwater runoff, and failed to comply with the specific requirements of any such permit, in violation of Sections 402(p)(3)(A) and 402(p)(4)(A) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A), and 40 C.F.R. §§ 122.26(c)(1) and (e)(1). In addition, Brookside has failed to obtain individual National Pollutant Discharge Elimination System (“NPDES”) permit coverage for any process water discharges associated with cleaning automobile parts of oil, paint, metals and grease, flushing automobile engines, crushing and/or dismantling automobile parts, and storing automobile parts both inside the Facility structure and outside in its yard.

BACKGROUND

The Millers River (Waterbody Segment ID MA35-04) is a waterbody in the Miller watershed. Brookside discharges into the Millers River at Segment MA35-04. Segment MA35-04 flows into a downstream segment of the Millers River (Segment ID MA35-05), which thereafter outlets into the Connecticut River (Segment ID MA34-02). EPA has designated the Millers River (Segment ID MA35-04) as a habitat for “aquatic life harvesting,” “fish, shellfish, and wildlife protection and propagation,” aesthetic value, and recreation.³ EPA has designated the downstream segment of the Millers River (Segment ID MA35-05) as a habitat for “aquatic life harvesting.”⁴ EPA has designated the Connecticut River (Segment ID MA32-02) as a habitat for “aquatic life harvesting” and “fish, shellfish, and wildlife protection and propagation.”⁵ The use of these waterbodies for other purposes remains unassessed at this time.

EPA has designated the Millers River (Segment ID MA35-04) as impaired pursuant to Section 303(d) of the Act, 33 U.S.C. § 1313(d), for failure to meet minimum water quality standards.⁶ The Millers River is impaired for pathogens, polychlorinated biphenyls (PCBs), and nutrients. Stormwater is a probable source of impairments in Segment MA35-04.⁷

EPA has designated the downstream segment of the Millers River (Segment ID MA35-05) as impaired pursuant to Section 303(d) of the Act, 33 U.S.C. § 1313(d), for failure to meet

http://water.epa.gov/polwaste/npdes/stormwater/upload/msgp2015_finalpermit.pdf (last visited April 15, 2016).

³ See 2012 Waterbody Report for Millers River (Segment ID MA35-04) at https://ofmpub.epa.gov/waters10/attains_waterbody.control?p_au_id=MA35-04&p_list_id=MA35-04&p_cycle=2012 (last visited April 22, 2016).

⁴ See 2012 Waterbody Report for Millers River (Segment ID MA35-05) at https://ofmpub.epa.gov/waters10/attains_waterbody.control?p_au_id=MA35-05&p_list_id=MA35-05&p_cycle=2012 (last visited April 22, 2016).

⁵ See 2012 Waterbody Report for Connecticut River (Segment ID MA34-02) at https://ofmpub.epa.gov/waters10/attains_waterbody.control?p_au_id=MA34-02&p_list_id=MA34-02&p_cycle=2012 (last visited April 22, 2016).

⁶ See 33 U.S.C. § 1313(d).

⁷ See *supra* note 3.

minimum water quality standards.⁸ The Millers River is impaired for polychlorinated biphenyls (PCBs). Stormwater is a probable source of impairments in Segment MA35-05.⁹

EPA has designated the Connecticut River (Segment ID MA34-02) as impaired pursuant to Section 303(d) of the Act, 33 U.S.C. § 1313(d), for failure to meet minimum water quality standards.¹⁰ The Connecticut River is impaired for polychlorinated biphenyls (PCBs) and alterations in stream-side or littoral vegetative covers. Stormwater is a probable source of impairments in Segment MA34-02.¹¹

Stormwater is water from precipitation events that flows across the ground and pavement after it rains or after snow and ice melt.¹² Industrial activities, such as material handling and storage, equipment maintenance and cleaning, industrial processing, and other operations that occur at industrial facilities, may be exposed to stormwater.¹³ Stormwater from industrial facilities, contaminated with pollutants, is then conveyed into nearby waterbodies.¹⁴

Brookside is required to apply for coverage under a Clean Water Act discharge permit such as the MSGP in order to discharge lawfully. Since at least 2010, Brookside has been specifically required to apply for coverage under the MSGP by filing a Notice of Intent (“NOI”) within ninety days after the initial issuance of the MSGP.¹⁵ On June 16, 2015, after expiration of the prior permit, the EPA issued a new MSGP requiring all covered facilities to file an NOI for coverage under the 2015 permit.

Brookside has failed to obtain coverage under the MSGP or any other valid authorization, at any time. Therefore, Brookside is operating in violation of the Clean Water Act.

PERSONS RESPONSIBLE FOR ALLEGED VIOLATIONS

Brookside is the person, as defined by 33 U.S.C. § 1362(5), responsible for the violations alleged in this Notice. Brookside has operated the Facility since at least 2010 and currently advertises as the operator of the Facility, and is registered with the Secretary of the Commonwealth as the

⁸ See 33 U.S.C. § 1313(d).

⁹ See *supra* note 4.

¹⁰ See 33 U.S.C. § 1313(d).

¹¹ See *supra* note 5.

¹² See 40 C.F.R. § 122.26(b)(13).

¹³ See 40 C.F.R. § 122.26(b)(14).

¹⁴ See 58 Fed. Reg. 61,146, 61,154 (November 19, 1993).

¹⁵ EPA’s Final National Pollutant Discharge Elimination System Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) was first issued in 1995, reissued in 2000, 2008, and 2015. See 60 Fed. Reg. 50,804 (Sept. 29, 1995); 65 Fed. Reg. 64,746 (Oct. 30, 2000); 73 Fed. Reg. 56,572 (Sept. 29, 2008); 80 Fed. Reg. 34,403 (June 16, 2015). See MSGP parts 1.1 and 1.2.

operator of the facility.¹⁶ Brookside and its agents and directors, including but not limited to Dennis H. McHugh, president and director, have operational control over the day-to-day industrial activities at this Facility. Therefore, they are responsible for managing stormwater at the Facility in compliance with the Clean Water Act.

LOCATION OF THE ALLEGED VIOLATION

The violations alleged in this Notice have occurred and continue to occur at the automobile salvage and scrap metal facility located at 4 Brookside Rd., Orange, MA 01364.

ACTIVITIES ALLEGED TO BE VIOLATIONS

Brookside has engaged, and continue to engage in “industrial activities” and its operations fall under SIC code 5015, within the meaning of 40 C.F.R. § 122.26(b)(14).¹⁷ Because the Facility has a primary SIC code of 5015 and stormwater discharges associated with industrial activity, Brookside is required to apply for coverage, obtain coverage, and comply with the requirements of a NPDES permit such as the MSGP. In addition, Brookside is required to obtain individual NPDES permit coverage for process water discharges that may result from activities such as cleaning, dismantling, crushing, handling, and storing automobile engines and other parts. Brookside has failed to take any of these required steps.

Activities at the Facility include, but are not limited to: dismantling, crushing, handling, cleaning, and storing automobile engines, transmissions, wheels, bumpers, hoods, fenders, and other parts; repairing used engines in preparation for resale; cleaning and changing oil filters and fuel filters; flushing engines; handling and disposing of materials; and other activities resulting in the improper discharge of engine oil, antifreeze, lubricating oil, brake fluid, transmission fluid, heavy metal particles, and hydraulic fluid into storm sewers or into receiving water. Heavy machinery and other equipment is operated and stored outdoors, therefore being exposed to and corroded by the elements. Vehicles driving on and off the Facility site track pollutants off-site.

Industrial equipment, materials and vehicles at the Facility are exposed to precipitation and snowmelt. Precipitation falls on and flows over the Facility, picking up paint solids, heavy metals, total suspended solids (TSS), total dissolved solids (TDS), diesel/gas fuel, ethylene glycol (antifreeze), acid and alkaline wastes, solvents, engine oil, lubricating oil, brake fluid, transmission fluid, hydraulic fluid, low density waste (floatables), trash, and other pollutants associated with the Facility’s operations. The polluted runoff is then conveyed off-site into

¹⁶ See

http://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSummary.aspx?FEIN=042667204&SEARCH_TYPE=1 (last visited April 22, 2016).

¹⁷ See MSGP, Appendix D: Activities Covered, at M-1. Automobile salvage yards identified by the SIC code 5015 are subject to the requirements of the MSGP for stormwater discharges.

waters of the United States via man-made collection systems and through the nexus of wind, water, and gravity.

STANDARDS AND LIMITATIONS ALLEGED TO HAVE BEEN VIOLATED

The Clean Water Act prohibits the discharge of pollutants to the waters of the United States except in accordance with a valid NPDES permit.¹⁸ Brookside discharges stormwater associated with its industrial activity, as defined by 40 C.F.R. § 122.26(b)(14), from its Facility into waters of the United States. Because Brookside has not obtained coverage for these stormwater discharges under the MSGP or an individual NPDES permit, it is illegally discharging stormwater without a permit, in violation of Sections 301(a) and 402(p)(2)(B) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p)(2)(B).¹⁹ By failing to apply for and comply with the specific requirements of the MSGP and individual NPDES permit program, Brookside is in violation of Sections 402(p)(3)(A) and 402(p)(4)(A) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A), and 40 C.F.R. §§ 122.26(c)(1) and (e)(1). In addition, unpermitted discharges of process wastewater constitute violations of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), and CLF puts Brookside on notice that CLF intends to pursue claims related to Brookside's unpermitted discharges of process water to waters of the United States.

a. Brookside is discharging stormwater to waters of the United States without a permit.

Brookside is an industrial discharger with a primary SIC code of 5015 which means that pursuant to Section 402(p) of the Act, Brookside is obligated to apply for coverage under the MSGP or obtain other legal authorization. Because Brookside has operated and continues to operate without a permit under Section 402(p), 33 U.S.C. § 1342(p), Brookside is in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

In addition, during storm events, Brookside's "industrial activities" at its Facility have resulted in a "discharge of pollutants" within the meaning of 33 U.S.C. § 1362(12) and "stormwater discharge associated with industrial activity" within the meaning of 40 C.F.R. § 122.26(b)(14), from its Facility on each and every day that there has been a measurable precipitation event of above 0.1 inches. There have been many such storm events since 2010. The Facility is generating pollutants from and through at least the following point sources: automobiles, automobile hulks, material piles, machines and equipment left outdoors, the vehicles driving on and off the Facility, channels,

¹⁸ 33 U.S.C. § 1311(a).

¹⁹ See 33 U.S.C. § 1362(12); 40 C.F.R. § 122.2; MSGP, Appendix A: Definitions, Abbreviations, and Acronyms (defining the term "discharge of a pollutant" as "any addition of any pollutant to navigable waters from any point source").

ditches, shallow subsurface hydrological connections, other conveyances to the Millers River.²⁰ The Millers River flows into the Connecticut River, which therefore eventually flows to the Atlantic Ocean, all of which are “waters of the United States,” as defined in 40 C.F.R. § 122.2, and therefore also “navigable waters,” as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7). The Facility is discharging this industrial stormwater without the permit required under Section 402 of the Act, 33 U.S.C. § 1342.

b. Brookside is discharging process water to waters of the United States without a permit.

Wastewater associated with industrial processes, including, but not limited to, washing materials and paved surfaces and spraying machinery, is classified as “process wastewater” under the federal Clean Water Act and as defined in 40 C.F.R. § 122.2. Wastewater produced by cleaning automobile parts of oil, paint, metals and grease, flushing automobile engines, crushing and/or dismantling automobile parts, and/or storing automobile parts both inside the Facility structure and outside in its yard can contain a variety of pollutants, including detergents, oil, grease, heavy metals, and other pollutants associated with the Facility’s operations. In addition, solids suspended or dissolved in washwater can pollute ground and surface waters. Process wastewater can have severe and long-term impacts on aquatic environments.

Discharges of process water that result from washing materials and paved surfaces and spraying machinery are not covered under the MSGP. Discharges of process wastewater must instead be covered under an individual NPDES permit. Brookside does not have an individual NPDES permit authorizing the discharge of pressure washwater to waters of the United States. CLF intends to pursue claims related to Brookside’s unpermitted discharges of process water to waters of the United States, namely the Millers River.

c. Brookside is violating the Clean Water Act by failing to obtain coverage and failing to comply with the requirements of the MSGP.

Brookside is violating 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A), and 40 C.F.R. §§ 122.26(c)(1) and (e)(1), by failing to apply for, obtain coverage, and comply with the requirements of the MSGP.²¹ The Facility at address has a primary SIC code of 5015 and must obtain coverage under the MSGP for its stormwater discharges

²⁰ These discharges constitute “point sources” as defined by 33 U.S.C. § 1362(14) and 40 C.F.R. § 122.2. CLF specifically puts Brookside Auto Parts, Inc. on notice that the unpermitted stormwater discharges associated with industrial activity include discharges from the Facility areas specified in 40 C.F.R. § 122.26(b)(14). *See also* 40 C.F.R. § 122.2, which states that the definition of “discharge of a pollutant” “includes additions of pollutants into waters of the United States from: surface runoff which is collected or channelled by man[.]”

²¹ MSGP part 1.1 and 1.2.

and for stormwater discharges from any co-located industrial activities.²² Brookside's failure to obtain coverage and comply with the permit is a violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).²³

1) Brookside Must Develop and Implement a Stormwater Pollution Prevention Plan (SWPPP).

As a prerequisite to obtaining coverage under the MSGP, Brookside must develop and implement a Stormwater Pollution Prevention Plan ("SWPPP").²⁴ The SWPPP must include, but is not limited to, the following: information related to a company stormwater pollution prevention team, a site description, a summary of pollutant sources, a description of control measures, and schedules and procedures pertaining to control measures and monitoring.²⁵ Brookside has failed to develop and implement a SWPPP in accordance with the MSGP requirements in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

2) Brookside Must Submit to EPA a Complete Notice of Intent to be Covered under the MSGP.

To be eligible to discharge under the MSGP, Brookside must submit a complete Notice of Intent ("NOI") to the EPA.²⁶ To complete the NOI, Brookside is required to determine whether the body of water to which the stormwater discharges is an "impaired" water body, and whether the Facility discharges any specific pollutants listed on the NOI to that water body.²⁷ The Millers River (Segments MA35-05 and MA35-04) and the Connecticut River (Segment MA34-02) are classified as "impaired" waters.²⁸ Additionally, as part of preparing the NOI, the covered Facility must make certain verifications such as ensuring that no harm is done to a species in violation of the Endangered Species Act.²⁹ Brookside has failed to prepare and file an NOI meeting all applicable requirements in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

3) Brookside Must Take Control Measures and Meet Water-Quality Effluent Limitations.

²² See MSGP part 1.1; MSGP part 8.M.

²³ A thorough search of EPA's database indicates that Brookside Auto Parts, Inc. has not filed an NOI for the Facility.

²⁴ See MSGP part 5.

²⁵ See MSGP part 5.1.

²⁶ See MSGP part 1.2.

²⁷ See MSGP part 2.2.2.

²⁸ See *supra* note 3, 4, and 5.

²⁹ See MSGP part 1.1.4.5 and 2.3.

To be eligible to discharge under the MSGP, Brookside must select, design, install, and implement control measures (including best management practices) to prevent polluted stormwater discharges from reaching nearby waterbodies. Brookside must address the selection and design considerations in the permit, meet the non-numeric effluent limitations in the permit, and meet limits contained in applicable permit effluent limitations guidelines.³⁰ These control practices must be in accordance with good engineering practices and manufacturer's specifications.³¹ If the control measures are not achieving their intended effect of minimizing pollutant discharges, the permittee must modify these control measures as expeditiously as practicable.³² Brookside has failed to cover the materials and operations that may result in polluted stormwater runoff. Brookside has not implemented the required control measures in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

4) Brookside Must Conduct Routine Facility Inspections.

To be eligible to discharge under the MSGP, Brookside must conduct routine inspections of all areas of the Facility where industrial materials or activities are exposed to precipitation, and must ensure that all stormwater control measures comply with the effluent limits contained in the MSGP.³³ Routine inspections must be conducted at least quarterly but in many instances monthly inspections are most appropriate.³⁴ These inspections must occur when the Facility is in operation.³⁵ The schedule of these inspections must be included in the Facility's SWPPP and be performed by qualified personnel.³⁶ Brookside has failed to conduct the required routine inspections in accordance with the MSGP requirements in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

5) Brookside Must Comply with the Required Monitoring and Sampling Procedures.

To be eligible to discharge under the MSGP, Brookside must collect and analyze stormwater samples and document monitoring activities consistent with the procedures in the MSGP.³⁷ The MSGP requires five types of analytical monitoring (one or more of which may apply) including quarterly benchmark monitoring, annual effluent limitations guidelines monitoring, State or Tribal-specific monitoring, impaired waters monitoring, and other monitoring as required by the EPA.³⁸ An operator must monitor each outfall identified in the SWPPP covered by a numeric

³⁰ See MSGP part 2.1.

³¹ *Id.*

³² *Id.*

³³ See MSGP part 3.1.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ See MSGP part 6.

³⁸ See MSGP part 6.2.

effluent limit.³⁹ Required monitoring must be performed after stormwater events that result in an actual discharge on a required schedule.⁴⁰ All monitoring data collected under the Permit must be reported to EPA. Furthermore, because the Millers River is an “impaired water” under 33 U.S.C. § 1313(d), Brookside must monitor for all pollutants for which the Millers River is impaired.⁴¹ As an upstream discharger to the Millers River (Segments IDs MA35-04 and MA35-05) and the Connecticut River (Segment ID MA34-02), all of which are impaired, Brookside may be required to monitor for all pollutants for which these waterbodies are impaired. Brookside has failed to conduct the required monitoring under the MSGP and has failed to submit the required monitoring reports to EPA in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

6) Brookside Must Carry out the Required Reporting and Recordkeeping.

Brookside must maintain and submit any and all required monitoring data.⁴² Such monitoring data includes the following: an annual report to EPA which includes the Facility’s findings from the annual comprehensive site inspection and any documentation of corrective actions;⁴³ an Exceedance Report to the EPA if any of the follow-up monitoring shows any exceedances of a numeric effluent limit;⁴⁴ and any other required reports under the MSGP.⁴⁵ Brookside has failed to maintain the required records and failed to submit all required monitoring data under the MSGP in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

7) Brookside Must Comply with the Requirement of MSGP Subpart M.

Brookside must also comply with the sector-specific requirements contained in Subpart M of the MSGP.⁴⁶ Subpart M requires automobile salvage yard facilities to implement additional technology-based effluent limits,⁴⁷ meet additional SWPPP and inspection requirements,⁴⁸ and monitor stormwater discharges for compliance with the benchmark limitations applicable specifically to automobile salvage yard facilities.⁴⁹ Brookside has failed to comply with the

³⁹ See MSGP part 6.1.1.

⁴⁰ See MSGP part 6.1.3.

⁴¹ See MSGP part 6.2.4.

⁴² See MSGP part 7.1

⁴³ See MSGP part 7.5.

⁴⁴ See MSGP part 7.6.

⁴⁵ See MSGP part 7.7.

⁴⁶ See MSGP, Appendix D, Table D-1, Sector M.

⁴⁷ See MSGP part 8.M.2.

⁴⁸ See MSGP part 8.M.3 and 8.M.4.

⁴⁹ See MSGP 8.M.5.



requirements of Subpart M of the MSGP in violation of the MSGP and Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

DATES OF VIOLATION

Each day on which Brookside Auto Parts, Inc. operates its Facility without permit coverage or discharges stormwater and/or process water without a permit from the Facility is a separate and distinct violation of Sections 301(a) and 402(p)(2)(B) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p)(2)(B).

Brookside has discharged stormwater without a permit in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), on every day since at least 2010 on which there has been a measurable precipitation event. Each day on which Brookside operates its Facility without permit coverage or discharges process water without a permit from the Facility is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. §§ 1311(a).

Every day, since at least 2010, on which Brookside has failed and continues to fail to apply for, obtain coverage, and comply with the requirements of the MSGP is a violation of Section 402(p)(3)(A) and (p)(4)(A) of the CWA, 33 U.S.C. §§ 1342(p)(3)(A) and (p)(4)(A).

Each day on which Brookside operates its Facility without permit coverage or discharges process water without a permit from the Facility is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. §§ 1311(a).

These violations are ongoing and continuous, and barring a change in the stormwater management controls at the Facility and full compliance with the permitting requirements of the Clean Water Act, these violations will continue indefinitely.

RELIEF REQUESTED

Brookside Auto Parts, Inc. is liable for the above-described violations occurring prior to the date of this letter, and for every day that these violations continue. Pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Act subjects Brookside to a penalty up to \$37,500 per day for each violation that occurred after January 12, 2009.⁵⁰ CLF will seek the full penalties allowed by law.

In addition to civil penalties, CLF will seek declaratory relief and injunctive relief to prevent further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C.

⁵⁰ 40 C.F.R. § 19.2



§ 1365(a) and (d), and such other relief as permitted by law. CLF will seek an order from the Court requiring Brookside to correct all identified violations through direct implementation of control measures and demonstration of full regulatory compliance.

Lastly, pursuant to Section 505(d) of the Act, 33 U.S.C. § 1365(d), CLF will seek recovery of costs and fees associated with this matter.

CONCLUSION

During the 60-day notice period, CLF is willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of further litigation. If you wish to pursue such discussions, please have your attorney contact Caitlin Peale Sloan within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing at the conclusion of the 60 days

Sincerely,

A handwritten signature in blue ink, appearing to read "Caitlin Peale Sloan", is written over a light blue rectangular background.

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